



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201114047

JAN 13 2011

Uniform Issue Code: 408.03-00

SE: T: EP: RA: T4

XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX

Legend:

Taxpayer A	= XXXXXXXXXXXXXXXXXXXXXXXX
IRA X	= XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXX
IRA Y	= XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXX
Amount A	= XXXXXXXXXXXXXXXXXXXXXXXX
Financial Institution R	= XXXXXXXXXXXXXXXXXXXXXXXX
Financial Institution S	= XXXXXXXXXXXXXXXXXXXXXXXX
Date 1	= XXXXXXXXXXXXXXXXXXXXXXXX
Date 2	= XXXXXXXXXXXXXXXXXXXXXXXX
Date 3	= XXXXXXXXXXXXXXXXXXXXXXXX
Date 4	= XXXXXXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXX

This is in response to your ruling request dated June 3, 2010, and supplemented by correspondence dated July 22, and July 23, 2010, submitted by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A, age 51, represents that on Date 1, she received a distribution from IRA X totaling Amount A. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to an error made by Financial Institution R. Taxpayer A further represents that Amount A has not been used for any other purpose.

Taxpayer A represents that she maintained IRA X at Financial Institution S until Date 1. On Date 1, Taxpayer A withdrew Amount A from IRA X with the intent of rolling the full amount into a rollover IRA at Financial Institution R. Taxpayer A represents that on Date 2, she went to Financial Institution R and gave instructions to deposit Amount A into a rollover IRA. Financial Institution R inadvertently placed Amount A into a certificate of deposit (CD), a non-IRA account. Taxpayer A did not become aware that the distribution from IRA X had been deposited into a non-IRA account until she received a Form 1099 from Financial Institution S. Once Taxpayer A became aware of the error, she contacted Financial Institution R and, on Date 3, Financial Institution R issued a letter acknowledging that it had deposited Amount A into a non-IRA account in error. On Date 4, Financial Institution R redeposited Amount A into IRA Y.

Documentation submitted with this request reveals that Taxpayer A intended to roll over Amount A within 60 days of the date of distribution. However, due to the Financial Institution R error Taxpayer A was unable to complete the rollover of Amount A within the 60-day rollover period.

Based on the facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement with respect to the distribution of Amount A.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the account is maintained if:

- 1) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or
- 2) the entire amount received (including money and other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the one-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and, (4) the time elapsed since the distribution occurred.

XXXXXXXXXXXXXXXXXX

Page 4

201114047

The information and documentation submitted by Taxpayer A, is consistent with her assertion that her failure to accomplish a timely rollover of Amount A was due to an error by Financial Institution R which led to Amount A being deposited into a non-IRA account.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount A from IRA X. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount A which was deposited into IRA Y, will be considered a valid rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This ruling is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you wish to inquire about this ruling, please contact XXXXXXXXXXXX, ID Number XXXXXXXXX at XXXXXXXXXXXX. Please address all correspondence to SE:T:EP:RA:T4.

Sincerely yours,

for

Ada Perry

Laura B. Warshawsky, Manager,
Employee Plans, Technical Group 4

Enclosures:

Deleted Copy of Ruling Letter
Notice of Intention to Disclose